

**THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN RE:
FRANCISCO NIEVES PIZARRO
Social Security: xxx-xx-1680
MARILYN CUADRADO NIEVES
Social Security: xxx-xx-5850

Address:
PO BOX 2947
GUAYNABO, PR 00970

DEBTORS

CASE NO. 19-07570-BKT/C
CHAPTER 13

**OPPOSITION TO FIRSTBANK PUERTO RICO'S MOTION TO DISMISS
AND TO STRIKE AS FRIVOLOUS**

TO THE HONORABLE COURT:

COME NOW DEBTORS, represented by Legal Partners, PSC., and through the undersigned attorney respectfully represent and pray as follows:

1. On June 9, 2020, Firstbank Puerto Rico, hereinafter referred as "Creditor", filed a motion requesting the dismissal of the above-caption case at docket entry number 29, hereinafter referred as the "motion". Before the filing of this motion we called sister counsel's cell phone, and various of the office telephones to no avail. Due to the proximity of the confirmation hearing, which is tomorrow, we had no other alternative but to file this motion as Debtors' plan confirmation will be affected by Firstbank's frivolous motion.

2. The appearing party moves for an order for the entry of an order in striking Creditor's motion as it fails to comply with the applicable rules and for failure in providing

correct information as to the Debtor's vehicle lien encumbered by Creditor. The motion is completely frivolous as it fails to acknowledge the moratorium extended by creditor.

3. On April 23, 2020, the Debtors received, through written electronic correspondence (E-mail), a notice from Creditor regarding the remedies provided in order to help with the financial impact caused by the Coronavirus (COVID-19) pandemic and the general lock-down enforced by the Governor of the Commonwealth of Puerto Rico. See, Exhibit 1.
4. After accessing the link provided in Creditor's E-mail, Creditor details that an automatic moratorium will be given to those "clients who have their accounts up to date or who have no more than two (2) late payments (89 days) as of March 16, 2020" and that the "eligible products" for this automatic moratorium include "Auto loans and leases." See, Exhibit 2.
5. Per review of Creditor's proof of claim, filed on January 15, 2020, Debtor had no arrears listed in said claim. See, Proof of Claim No. 4, Page 2 of 7.
6. Furthermore, per the evidence included in Creditor's motion, Debtors made all their payments up to March 6, 2020, complying with the terms provided for the approval of the automatic moratorium. See, Docket entry number 29, Page 6 of 8.
7. Therefore, Creditor's averments are unfounded and unwarranted, since they cannot offer a relief to Debtors through an automatic moratorium just to proceed, several months later, with allegations of non-compliance with the terms of the plans.

8. The appearing party reserves the right to bring an adversary proceeding or complaint to determine and establish damages of any type, contractual breach, or any other remedy available under the Truth in Lending Act, Federal Law or Puerto Rico Law.
9. The Court should consider the imposition of reasonable sanctions, as the motion clearly incorrect. It is unquestionable that the motion filed by Creditor failed to make an objectively reasonable inquiry into the existing law, as required by Fed. R. Civ. P. 11 and Bnkr. R. 9011. Rule 11(b) of the Federal Rules of Civil Procedure and the Bankruptcy equivalent found in Bnkr. R. 9011(b) establishes a litigant's duty to conduct a reasonable inquiry into the facts and the law before signing pleadings or proofs of claim, filing and submitting motions and other documents and advocating before a court of law. See, Business Guides, Inc. v. Chromatic Communications Enterps., Inc., 498 U.S. 533, 111 S. Ct. 922, 933, 112 L. Ed. 2d 1140 (1991); Bobe-Muniz v. Caribbean Restaurants, Inc., 76 F. Supp. 2d 171, 175 (D.P.R. 1999). The claims and other legal contentions presented to the court must be warranted by existing law. See, Nyer v. Winterthur Intern., 290 F.3d 456, 461 (1st Cir. 2002). The omission of the automatic moratorium provided by Creditor is clear evidence of the lack of diligence and duties required by law.
10. It is concerning that just one day before the confirmation hearing, a frivolous motion to dismiss is filed, and one could opine that it is an attempt by creditor to circumvent LBR 3015-3(d)(3), which requires that an objection to confirmation be filed at least 8 days before the confirmation hearing.

11. LBR 3015-3(d)(3) provides that any party objecting to confirmation shall take the following action:

(A) Any creditor or party in interest may file and serve to the debtor, debtor's attorney, the chapter 13 trustee, the United States trustee and any other entity designated by the court, an objection to confirmation of the plan at least seven (7) days before the date set for the confirmation hearing as required by Fed. R. Bankr. P. 3015(f).

12. Therefore, if it was Creditor's intent to object the confirmation of the plan, the Motion is also untimely and should be stricken for said reason.

WHEREFORE, the appearing party requests this Court to enter an Order:

- a. Declaring that the Motion to Dismiss filed by Firstbank Puerto Rico is frivolous, as it fails to consider the extended payment moratorium and accordingly should be stricken from the record;
- b. Impose the proper sanctions as a result of Firstbank Puerto Rico's failure to investigate the facts and applicable law;
- e. Awarding such other and further relief as is just and proper.

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification, upon information and belief, of such filing to: María Benabe Rivera, Esq., Monsita Lecaroz Arribas, Esq., U.S. Trustee's Office, Jose R. Carrion Morales, in addition to any and all parties registered in this case to receive CM/ECF Notices. We will serve by regular mail this document to any the above-named persons, upon knowing that they are non CM/ECF participants.

RESPECTFULLY SUBMITTED.

In Carolina, Puerto Rico, June 10, 2020.

LEGAL PARTNERS, P.S.C.
138 Ave. Winston Churchill, PMB 316
San Juan, P.R. 00926
Telephone: (787) 791-1818
Fax: (787) 791-4260

/s/Juan M. Suárez Cobo
JUAN M. SUÁREZ COBO
USDCPR 211010
suarezcobo@gmail.com

Christian Gonzalez

From: Marilyn Cuadrado
Sent: Tuesday, June 9, 2020 12:01 PM
To: cgonzalez@legalpartnerspr.com
Subject: Fwd: Evita esperar en el teléfono. Conoce las herramientas y programas a tu disposición ↓

----- Forwarded message -----

De: FirstBank <firstbank@firstbankpr.com>

Date: jue., 23 de abril de 2020 7:45 p. m.

Subject: Evita esperar en el teléfono. Conoce las herramientas y programas a tu disposición ↓

To:

[Ver en tu navegador](#)

[English](#)



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Ante la situación actual, tú y tu familia son prioridad. Por eso queremos que evites largas esperas en nuestro centro de llamadas y puedas manejar tu dinero con mayor conveniencia. Aquí están los planes, programas y herramientas que tenemos a tu disposición.



Plan de Alivio Económico:

Conoce los ajustes a nuestro Plan de Alivio Económico que ahora incluye moratorias automáticas para algunos productos. Haz clic [aquí](#) y conoce todos los detalles.

Programa de Protección de Nómina (PPP) de la Small Business Administration (SBA)



Sabemos el impacto que esta situación ha provocado en el sector comercial y estamos comprometidos con brindarte las herramientas que te hacen falta.

Conoce los beneficios y requisitos para solicitar [aquí](#).

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Hemos aumentado temporalmente el límite diario en depósitos a través de Depósito Expreso Móvil a \$10,000 diarios y hasta \$20,000 mensuales utilizando la aplicación móvil de Tu Banca Digital. Para detalles haz clic [aquí](#).



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Nuestras sucursales están operando de lunes a viernes en horario especial. Sábados y domingos permanecerán cerradas hasta nuevo aviso. Además, hemos aumentado el límite de transacciones que puedes hacer a través de AutoBanco. Ahora puedes depositar hasta \$10,000 y realizar hasta 10 transacciones.

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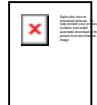
Servicios en Línea para Tarjetas de Crédito

Haz pagos y verifica el balance de tu tarjeta de crédito [en línea](#).



Servicios en línea de Hipotecas

Para información sobre tu hipoteca, balances y pagos [accede ya](#).



Maneja las finanzas de tu negocio

Verifica balances de cuentas, emite pagos de nómina y más a través de **Smart Cash Management**. Si deseas más información, comunícate con nosotros al **787.729.8290** y selecciona la opción #2 o con tu Oficial de Relación.



Te exhortamos a quedarte en tu casa lo más posible, los profesionales de la salud que están trabajando incansablemente con esta emergencia te lo agradecerán.
#EsteVirusLoParamos Unidos

Pendiente y conoce lo últimos detalles sobre esta situación a través de nuestros medios sociales o entra [aquí](#) para conocer todas las medidas implementadas.



Llama a
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FirstBank es miembro FDIC. Equal Housing Lender. Los programas de ayuda financiera están sujetos a ciertos términos, condiciones y restricciones. Estos programas de ayuda financiera del Banco están disponibles para residentes de Puerto Rico y solo para productos de

FirstBank Puerto Rico y su subsidiaria Money Express. Para más información, visita nuestra página 1firstbank.com Todos los productos y servicios están sujetos a términos, condiciones y restricciones de

FirstBank. Ciertos cargos podrían aplicar. Luego de terminada la situación temporera debido al COVID-19, los límites volverán a las cantidades regulares. Estos son: \$3,500 por cheque por día y hasta \$10,000 por mes. El ciclo mensual se considera a partir de 25 días laborables de la fecha del último depósito realizado a través de este servicio. Los fondos estarán disponibles según la Política de Disponibilidad de Fondos de FirstBank que se encuentra en el Acuerdo de Cuentas de Depósito.

Departamento de Mercadeo y Relaciones Públicas de FirstBank
Ave. Muñoz Rivera #1130, Río Piedras, PR 00927

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Information about the Economic Relief Plan

We are aware of the situation we are experiencing as a country and have adjusted our Economic Relief Plan to provide you with an automatic moratorium on payments in April, May, and June. Learn here about the details and who might be eligible.

To help you cope with the economic impact of the spread of the coronavirus (COVID-19), we have designed an Economic Relief Plan with automatic moratoriums for clients who have their accounts up to date or who have no more than two late payments (89 days) as of March 16, 2020.

Eligible products

- Auto loans and leases
- Personal loans
- Credit cards
- Individual lines of credit

How to get in touch with us



Call us at 787-725-2511

(<tel:787-725-2511>) Monday through Sunday, from 6:00 a.m. to 9:00 p.m.



Write us a private message through our Facebook (<https://www.messenger.com/t/firstbank>) page with your full name and phone number.

- Money Express – Small personal loans

In the case of Credit Cards and Individual Lines of Credit, to qualify you must have the account up to date on this date as of March 16, 2020.

If you are registered with the Direct Debit service and want to apply for a moratorium, contact us at [\(787-725-2511\)](tel:787-725-2511) and request a temporary suspension. If the direct debit is scheduled with another financial institution, you should contact them directly.

Mortgage Clients

The help available will depend on your type of loan, number of months overdue and your particular situation as a result of the emergency. To receive more information about the available alternatives, you must contact us.

If you do not want to apply for the moratorium for Consumer Products or Mortgages, or if during this period your financial condition improves and you are willing and able to continue making your payments, you can continue making them as usual.



Send us an email to

apoyoalcliente@1firstbank.com
[\(mailto:apoyoalcliente@1firstbank.com\)](mailto:apoyoalcliente@1firstbank.com)
with your full name and phone number.

We know that in these uncertain times you have many questions and we want to help you. Read our frequently asked questions about the moratorium.

See FAQs (</en/frequently-asked-questions>)

FirstBank Para Servirte

Normando Valentín y Javier Hernández, primer vicepresidente y gerente de administración de hipotecas de FirstBank, contestan tus preguntas más frecuentes acerca de la moratoria.

PRODUCTS AND SERVICES

Personal (<https://www.1firstbank.com/pr/en/retail-banking>)

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Help Center (<https://www.1firstbank.com/pr/en/help-center>)

About Us (<https://www.1firstbank.com/pr/en/about-us>)

RESOURCES

Unclaimed Funds (<https://www.1firstbank.com/pr/en/Documents/Fondos%20No%20Reclamos%202014.pdf>)

Repossessed Properties (<https://www.1firstbank.com/pr/en/retail-banking/classified-ads/reposessed-properties>)

Security (<https://www.1firstbank.com/pr/en/help-center/security>)

Locator (<https://www.1firstbank.com/pr/en/help-center/locator>)

POLICIES

Privacy Policy
([https://www.1firstbank.com/pr/en/Documents/FirstBank_Privacy_Policy%20\(1\).pdf](https://www.1firstbank.com/pr/en/Documents/FirstBank_Privacy_Policy%20(1).pdf))

Terms & Condition of Use
(<https://www.1firstbank.com/pr/en/help-center/policies/terms-conditions-of-use>)

Guides for the use of
Social Networks
(<https://www.1firstbank.com/pr/en/help-center/policies/guides-for-the-use-of-social-networks>)

Online Media Privacy
Policy
(<https://www.1firstbank.com/pr/en/Documents/First-BanCorp-Online-Media-Privacy-Policy.pdf>)

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Investor Relations (<https://www.1firstbank.com/pr/en/about-us/investors-relations>)

APPS



FirstBank is Member FDIC. Equal Housing Lender. Economic relief plans are subject FirstBank's terms, conditions and restrictions. These programs for economic relief are available for residents of Puerto Rico and only for products from FirstBank Puerto Rico and its subsidiary Money Express.

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Federal Law requires that all financial institutions obtain, verify, and keep records regarding the information that identifies all persons who open accounts. This means that when you open an account, we will ask for your name, address, date of birth and social security or tax identification number as well as other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents. In all cases, protection of our customers' identity and confidentiality of their information is our commitment.